In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 74-1558

RICHARD BECK, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES

In seeking certiorari, petitioner contended, and we agreed, that the decision of the Sixth Circuit on the merits in the instant case conflicts with the recent panel opinion of the United States Court of Appeals for the District of Columbia Circuit in *United States* v. *Bradshaw*, 515 F.2d 360. We wish to apprise the Court that on September 9, 1975, on consideration of the United States' petition for rehearing and suggestion for rehearing *en banc*, the District of Columbia Circuit entered an order in *Bradshaw* granting the suggestion for rehearing *en banc* and vacating the opinion and judgment previously filed therein.[1] Accordingly, there is no longer a conflict in the circuits for this Court to resolve.[2] More-

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[1]A copy of the Order is appended hereto.

[2]As we noted in our memorandum (pp. 5-6 and note 5), the Second, Seventh and Ninth Circuits are in agreement with the decision of the court of appeals in the instant case. There are no contrary decisions from other circuits of which we are aware.

over, as we previously demonstrated in our memorandum in opposition, petitioner has no standing to contest the search and seizure at issue here.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

SEPTEMBER 1975.

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA
CIRCUIT

September Term, 1974
Criminal 74-239
Filed Sept. 9, 1975
Hugh E. Kline, Clerk

UNITED STATES OF AMERICA,
APPELLANT

v.

MICHAEL J. BRADSHAW AND
VANCE E. ROBINSON

Before: Bazelon, Chief Judge; Wright, McGowan, Tamm, Leventhal, Robinson, MacKinnon, Robb and Wilkey, Circuit Judges.

ORDER

On consideration of appellant's petition for rehearing and suggestion for rehearing *en banc*, it is

ORDERED by the Court *en banc* that appellant's aforesaid suggestion for rehearing *en banc* is granted, and it is

FURTHER ORDERED by the Court *en banc, sua sponte*, that the opinion and judgment filed herein on June 30, 1975 are hereby vacated.

Per Curiam

For the Court:

HUGH E. KLINE
Clerk

Chief Judge Bazelon and Circuit Judge Wright would deny the suggestion for rehearing *en banc*.